CRIMES COMPENSATION BOARD

Annual Report

March 31, 1983

Alberta

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THE CRIMES COMPENSATION BOARD SUMMARY

ANNUAL REPORT FOR PERIOD

APRIL 1, 1982 TO MARCH 31, 1983

Alberta
Attorney General

Alberta
THE CRIMES COMPENSATION BOARD

9833 - 109 Street, Edmonton, Alberta, Canada T5K 2E8 403-427-7217

January 24, 1984

The Honourable Neil Crawford, Q.C.,
Attorney General of Alberta,
Legislature Building,
Edmonton, Alberta

Dear Sir:

I submit herewith the Annual Report of the Crimes Compensation Board for the period April 1, 1982 to March 31, 1983.

Respectively submitted,

B. V. Massie

Bruce V. Massie, Q.C.,
Chairman.

TABLE OF CONTENTS

	Page
Introduction	1
Applications	2
Monthly Awards	3
Interim Awards	4
Final Awards	5
Supplemental Awards	6
Pain and Suffering	7
Public Awareness	8
Decisions	9
Payments	9
Fees	10
Types of Crime	10
Statistical Summaries	11

THE BOARD

ERNEST S. WATKINS, Q.C. - CHAIRMAN (1976 - 1982)

BRUCE V. MASSIE, Q.C. - CHAIRMAN (1983)

BORIS A. NAHORNICK, M.D. - VICE CHAIRMAN

TERRENCE J. NUGENT - MEMBER

Copies of this report may be obtained from:

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INTRODUCTION

The Criminal Injuries Compensation Act was enacted in 1969 to provide assistance to victims of violent crime who suffer financial loss as a direct result of injuries or death.

The Crimes Compensation Board, established under The Criminal Injuries Compensation Act, consists of three members appointed by the Lieutenant Governor in Council, one of whom must be a barrister and solicitor. The present members of the Board are: B.V. Massie, Q.C., Chairman; Dr. B.A. Nahornick, Vice-Chairman and T.J. Nugent, Member.

Ernest S. Watkins, Q.C., served as a Board member from 1969 to 1976 and as Chairman from 1976 until his death in September 1982. He was a leader in organizations in Canada and internationally dealing with assistance to victims of crime and was principally responsible for the establishment and progress of the plan in Alberta. He was widely recognized as an expert in the field.

The Board is directed to hold hearings throughout the province to review claims and although proceedings are informal, any false statement made to the Board is punishable by a fine not exceeding $500. Evidence is obtained from reports by police, hospitals, doctors, dentists, employers and income tax returns in addition to hearing the applicant and witnesses if required.

The Board may make orders for compensation when injury or death is a direct result of an act or omission of another person that occured in Alberta and is within the description of any of the criminal offences set out in Schedule 1 of the Act or to a person who attempts to make an arrest or prevents or attempts to prevent the commission of a criminal offence or assists a peace officer in so doing.

The Board may compensate for damage to property in only two cases: (a) for loss or damage to clothing and eyeglasses worn at the time; and (b) for damage caused by a peace officer while he is preventing a criminal offence or arresting a criminal or suspect. There is a $10,000 limit to the damage that can be claimed and the damage must have been caused after May 4, 1982, the date the amending Act came into force.

Claims may be considered by the Board if the crimes and injury occurred in Alberta, the details have been reported to the police within a reasonable time, the claim is received by the Board within one year of the injury or death and the loss for which the claim is made exceeds $100.

An applicant must consent to a medical examination if required by the Board and allow the Board to conduct inquiries to verify any statements made.

The Board cannot compensate for injuries caused by motor vehicles except where a spouse is killed as a result of criminal negligence on the part of the operator or because the operator was driving while impaired.

Generally the Board's jurisdiction is limited to awarding compensation for pecuniary loss suffered by the victim such as loss of wages or loss of support by a dependant of the victim and expenses incurred by the victim or others on his behalf.

APPLICATIONS

During the last fiscal year the number of applications has continued to rise from 273 in the previous year to 405 - 290 from males and 113 from females. Residents of other provinces accounted for 30 claims. Of the 405 applications, 361 were for personal injury, 42 were for death benefits, and 2 were for property damage.

The number of decisions made and recorded by the Board was 443. Payments based on these decisions during the past year totalled $724,551. Loss of earnings accounted for more than 58 per cent of this total.

As medical and hospital expenses of most victims are covered by the provincial health plans, medical expenses paid by the Board were mainly for dental work.

The most frequent violent crimes giving rise to applications were:

Assault Causing Bodily Harm
Robbery
Wounding With Intent
Attempted Murder
Murder

In the fiscal year 28 applicants were refused awards. The following are two examples of applications refused.

Decision No. 1916-83

Application No. 111-5

This was an application by a male separated, age 53, for compensation for loss from injuries sustained on March 13, 1982 in Grande Prairie. Applicant received a fractured skull. As the applicant was unemployed and receiving social assistance at the time of the injury and the only other loss was $50 for transportation, the claim is below the minimum $100 amount.

Decision No. 1666-82

Application No. 160-3

This was an application by a female for support for herself and her children after her husband was fatally stabbed in Calgary on July 29, 1980. As the deceased had not been supporting the applicant or their children, they did not fall under the definition of "dependant" contained in the Act. Consequently the application was refused.

MONTHLY AWARDS

The Board feels confident that its power to make awards on a monthly basis is a valuable remedy. Awards of this type provide monthly payments to a victim suffering a continued disability, or in the case of a claim for death benefits, to the dependants of a victim.

There are many instances in which payment of a single lump sum to a victim would be inappropriate, particularly in times of inflation. A monthly payment involves an annual review by the Board, when amendments can be made as circumstances change.

At the present time 34 victims are receiving monthly payments, ranging from $50 to $2,300. Each amount depends on the former earning capacity of the victim. The following are four examples of monthly awards.

Decision No. 1555a-82 Application No. 077a-4

Victim male, age 38, oil well driller, was shot in the chest in Red Deer on July 14, 1981. The bullet penetrated the victim's chest and fractured the T-3 vertebra of the spine, severed the spinal cord thus causing complete paraplegia below that point. An interim award of $8,905 was made to the applicant with $245 for medical and legal fees in February, 1982. In July 1982, a further award of $2,100 was awarded the applicant; $747 medical and legal fees and a monthly award of $2,300 to continue until further order. Total amount paid out to date is $34,997.

Decision No. 266L-83 Application No. 66k-73

Victim male, age 51, was stabbed on the right side of the abdomen on April 9, 1973 in Edmonton. The knife perforated the ascending colon and severed muscles and nerves in that area. The victim was hospitalized for several months and required additional surgery. In January 1974 the Board awarded an interim award of $2,570. In November 1974 the Board awarded the applicant a further $2,500. In April 1975, the applicant was awarded $200 a month, which was increased to $300 in October 1975; $350 in May 1978; $375 in May of 1979; $400 in May of 1980; $450 in May of 1981 and $500 in June of 1982. Medical and legal costs have amounted to $1,404. Total amount paid out to date is $41,924.

Decision No. 1311c-82 Application No. 048b-3

Widow, age 38, three children, whose husband was fatally shot by a juvenile at Cold Lake on January 19, 1980. The Board awarded the applicant $4,200 and the sum of $525 per month commencing October 1980. A further award of $475 was made in November 1980 for funeral expenses. The Board increased the monthly award to $550 in November 1982. Legal fees and other pecuniary losses have been awarded in the amount of $593. Total amount paid out to date $15,143.

Decision No. 1016d-83 Application No. 120d-1

Widow, age 52, four children, whose husband was fatally injured on June 2, 1977 at Lacombe. In May 1979 the Board made an interim award of $12,796 to cover loss of income for 22 months and funeral expenses and awarded $500 per month commencing May 1, 1979. As the applicant remarried in 1980 and only two children were left at home, payments were reduced to $150 a month. In January 1982 the payments were reduced to $100 a month as only one child remained at home. Total amount paid to date including legal fees and other pecuniary loss of $12,450.

INTERIM AWARDS

An interim award is a lump sum payment made when no permanent disability is expected from injuries sustained, but is usually serious enough to warrant a reassessment of the Applicant's condition in six months. In the last fiscal year 29 interim awards were granted by the Board. The following are three examples:

Decision No. 1868-83 Application No. 097-4

Victim male, age 34, glass installer, was assaulted in Calgary on February 24, 1982. He suffered extensive damage to colon, liver and spleen requiring several major operations. The Board awarded an interim payment of $7,770 for loss of earnings, clothing and legal fees. Applicant will require further surgery.

Decision No. 1743-82 Application No. 221-4

Victim male, age 30, resident of Nova Scotia, was stabbed in the chest in Calgary on December 27, 1981. He underwent surgery and remained in Hospital for approximately four weeks. The Board awarded $12,140 for loss of earnings and medical expenses (which were extensive as applicant was not covered by health care). More medical expenses are expected.

Decision No. 1689-82 Application No. 212-4

Victim male, age 18, of Crossfield, Alberta was struck on the head with a baseball bat, sustaining a fractured skull and subdural hematoma leaving his left side completely paralyzed. The applicant was in hospital for a considerable period of time and has now been transferred to an extended care hospital where he is expected to remain indefinitely. In July 1982 the Board awarded the applicant's mother $2,176 for travel expenses to and from the hospital, medical expenses and ambulance. In February 1983 the Board awarded an additional $1,992 to cover expenses and the matter will be reviewed in 6 months. No loss of earnings was involved.

FINAL AWARDS

A final award is a one-time payment to cover a victim's loss of earnings and expenses resulting from a crime where the Applicant is able to return to work with no decrease in earnings. There were 283 final payments awarded in the last fiscal year. The following are six examples.

Decision No. 1698-82 Application No. 204-4

Victim male, age 35, resident of Edmonton was assaulted on February 28, 1981. He was struck in the face resulting in a fractured jaw. The applicant was awarded $2,005 for loss of earnings.

Decision No. 1635-82 Application No. 126-4

Application by father for medical and funeral expenses arising out of the death of his son who was stabbed in Morinville on August 19, 1981. Son was not covered by any health care plan. In May 1982 the Board awarded $10,139 for medical and funeral expenses.

Decision No. 1620-82 Application No. 069-4

Victim male, age 29, resident of Edmonton was stabbed in the chin on June 9, 1981. In December 1982 the Board awarded $1,280 for loss of earnings and medical expenses.

Decision No. 1716-82 Application No. 040-5

Victim female, age 22, raped in Edmonton, December 15, 1981. Victim suffered severe trauma resulting in speech impediment. She was off work for approximately four months. In September 1982 the Board awarded $2,161 for loss of wages, ambulance and loss of clothing.

Decision No. 1820-82 Application No. 012-5

Application by mother for funeral expenses arising out of the death of her son who was shot during an attempted hold-up in Red Deer on October 7, 1981. In December 1982, the Board granted a final award of $2,591 for funeral expenses.

Decision No. 1848-82 Application No. 168-5

Victim female, age 22, resident of Calgary was raped on September 26, 1981. In January 1983 the applicant was awarded $1,000 for loss of earnings.

SUPPLEMENTAL AWARDS

A supplemental award is a lump sum payment made to a victim to cover additional expenses, usually medical, which may have been incurred after the initial award. The Board granted 67 supplemental awards to applicants in the last fiscal year. The following are four examples.

Decision No. 1209g-82 Application No. 096-1

Victim male, 35, painter, assaulted in Edmonton on September 10, 1978 resulting in the loss of his right eye. A final award was granted in March 1980 of $2,450 to cover loss of wages and other pecuniary losses. In November 1982 the applicant applied for a replacement of the artificial eye and was granted $350. Total paid out to date $2,800.

Decision No. 1729g-82 Application No. 048-5

Victim male, 31, was assaulted and stabbed in Calgary on October 29, 1981. The applicant suffered a perforation of the small bowel and massive peritonitis. In September 1982 an award of $5,223 was made covering loss of earnings and medical expenses. A further award of $3,150 was awarded in November 1982 to cover additional medical expenses. Total paid out to date $8,373.

Decision No. 1632a-82 Application No. 177-4

Victim male, age 15, was assaulted in Millet, on October 26, 1981. The applicant was struck in the mouth resulting in a fractured jaw and damage to teeth. In May 1982 the father of the applicant was awarded $200 for loss of earnings and travel expenses. In December, dental expenses of $932 was paid. Total paid out to date $1,132.

Decision No. 1619-82 Application No. 171-4

Victim female, age 23, chambermaid, was assaulted in Edmonton in August of 1981 resulting in a broken jaw. In May of 1982 the applicant was awarded $1,092 for loss of earnings, drugs and dental expense. In October 1982 the applicant received $203 for dental expenses and $36 for drugs and transportation. In January an additional dental expense of $464 was awarded. Total paid out to date $1,796.

PAIN AND SUFFERING

The ability of the Board to award compensation for what is termed pain and suffering is limited, both in circumstances and amount. Compensation for disfigurement and pain and suffering caused by the injury can only be awarded if the injury occurred while the victim was preventing a crime or making an arrest or assisting a peace officer to do so. The maximum award is $10,000. The total paid out last year was $45,700 as compared to $37,950 paid the previous year. The scale of these awards is well below that of comparable awards in the civil courts due to the restrictions expressed in the Criminal Injuries Compensation Act. The great majority of these awards are made to police officers who have been injured when they are arresting or pursuing offenders.

The following are four examples of pain and suffering payments.

Decision No. 1615-82 Application No. 121-4

Application by a male, age 24, for pain and suffering resulting from injuries sustained in August, 1981 in Edmonton. The applicant was travelling with his father in their car when it was forced off the road by another vehicle. Father got out of his car and was assaulted by the other driver. The applicant went to his father's aid and was also assaulted. An award was made of $1,249 for pecuniary loss and $750 for pain and suffering.

Decision No. 1626-82 Application No. 152-4

Application by a male, age 31, paramedic, for pain and suffering received in November, 1981 in Calgary. The applicant had attended the Foothills Hospital to transport a patient to Ponoka Hospital when the patient became violent and struck the applicant causing a broken nose. The applicant suffered no loss of earnings but was awarded $1,000 for pain and suffering.

Decision No. 1646-82 Application No. 151-4

Application by a male, age 24, police officer, for injuries received in February 1981 in Calgary. While transporting an impaired driver to the police station, the applicant was attacked. He suffered injuries to his eye, neck, shoulder and arm. The applicant was awarded $2,168 for loss of overtime and court appearances and $2,500 for pain and suffering.

Decision No. 1771-82 Application No. 015-5

Application by a male, age 43, welder and restaurant owner, for injuries received in August, 1981 in Edmonton. Four patrons were consuming alcohol in his unlicenced restaurant and the applicant requested that they leave the premises. One of the patrons returned a short time later with a gun. The applicant, while trying to disarm the man to protect the customers in his restaurant, was shot in the right eye. Applicant was awarded $2,605 pecuniary loss and $5,000 pain and suffering.

PUBLIC AWARENESS

The Board believes that knowledge of the existence and mandate of the Crimes Compensation Board is increasing across the province although the process is far from complete. One indication of this is the increase in the number of applications filed within a few days of the event.

An information brochure outlining the work of the Board and the relief it can provide has been distributed to police forces, schools, hospitals and interested groups in the province. The police forces have been provided with a summarized information card which can be given to a victim when a crime is being investigated.

The Board is very appreciative of the cooperation it has received from the news media in publicizing its decisions.

The Board also wishes to acknowledge and thank the law officers of the Crown for their assistance and is mindful of the conscientious and capable manner in which the Board's staff carry out their responsibilities.

The police departments of both Calgary and Edmonton maintain Victim Services Units for assistance to victims including assistance in completing applications under the Act.

DECISIONS

The total number of decisions made by the Board in the past fiscal year was 443, broken down as follows:

Monthly Awards	36
Interim Awards	29
Final Awards	283
Supplemental Awards	67
Applications Refused	28

PAYMENTS

Payments made during this past year based on the above decisions were:

Monthly Awards	$134,177
Interim Awards	112,827
Final Awards	439,425
Supplemental Awards	38,122
	$724,551

A breakdown of the awards is as follows:

Loss of Earnings	$425,858
Medical Expenses	101,021
Pecuniary Loss to Dependants of Victims	32,830
Pain and Suffering	45,700
Funeral Expenses	53,788
Other Pecuniary Loss	55,673
Counsel and Legal Fees	9,681
	$724,551

FEES

The fees paid out to the Board members were $82,500. Their disbursements totalled $11,655 bringing the total paid out to the Board $94,155. The Board held hearings on 55 days; 32 in Edmonton and 23 in Calgary.

TYPES OF CRIMES

Of applications which had a first hearing during the 1982-83 period, the following was noted:

Arson	1
Assaulting a Peace Officer	12
Assault Causing Bodily Harm	233
Attempted Murder	29
Attempted Rape	1
Careless Use of a Firearm	8
Causing Bodily Harm by Criminal Negligence	9
Causing Bodily Harm with Intent	8
Causing Death by Criminal Negligence	1
Common Assault	8
Dangerous Use of Firearm	8
Illegal Conveyance	1
Impaired Driving	1
Indecent Assault on a Female	1
Manslaughter	8
Murder	29
Possession of an Offensive Weapon	1
Rape	8
Robbery with Violence	39
Setting Traps to Cause Bodily Harm	1
Wounding with Intent	36
	443

STATISTICAL SUMMARIES
BREAKDOWN OF AWARDS

Year	Loss of Earnings	Medical Expenses	Pecuniary Loss to Dependants	Pain and Suffering	Funeral Expenses	Other Pecuniary Loss	Counsel & Legal Fees	TOTALS
1982-83	425,858	101,021	32,830	45,700	53,788	55,673	9,681	724,551
1981-82	297,800	45,991	51,805	37,950	23,674	26,746	5,651	489,617
1980-81	302,328	39,637	45,789	24,150	24,577	31,302	7,025	474,808
1979-80	365,081	45,175	41,582	21,450	42,034	27,512	7,730	550,564
1978-79	301,217	32,621	30,577	17,036	43,695	27,123	8,580	460,849
1977	267,759	31,355	36,370	26,200	21,298	20,665	8,012	411,659
1976	219,314	23,379	32,320	35,200	5,744	45,106	10,268	371,331
1975	162,881	11,229	41,390	3,500	1,114	9,451	5,710	235,275
1974	131,967	10,336	17,127	8,000	1,248	9,081	4,540	182,299
1973	72,753	8,690	9,841	8,750	—	5,973	2,214	108,221
1972	83,941	8,212	19,697	11,570	3,374	3,761	2,514	133,069
1971	47,178	6,810	8,350	3,610	561	2,677	2,292	71,478
1969-70	39,692	5,105	521	5,250	741	10,596	2,589	64,493